

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q80828

Tadashi YONEDA, et al.

Appln. No.: 10/593,692

Group Art Unit: 1655

Confirmation No.: 2842

Examiner: Susan Coe HOFFMAN

Filed: September 20, 2006

For: OIL-IN-WATER EMULSIFIED COMPOSITION, AND EXTERNAL PREPARATION
FOR SKIN AND COSMETICS USING THE COMPOSITION

**RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT
APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID
SEQUENCE DISCLOSURES**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This response is in regard to the NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES, dated September 17, 2009, issued in the above-referenced patent application.

In the Notice to Comply, it is asserted that the present Application fails to comply with the requirements of 37 C.F.R. §§1.821-1.825, because no sequence listing has been provided; the Office contends that the specification and claims contain peptide sequences that must be identified by SEQ ID NOs.

Applicants respectfully disagree. While Applicants acknowledge that the specification as originally filed recites peptide sequences of greater than four amino acids, *i.e.*, at pages 4, 5 and 41, Applicants note that this peptide sequence contains D-amino acids, specifically D-leucine.

Pursuant to M.P.E.P. §2422.01, “[t]he presence of one or more D-amino acids in a sequence will exclude that sequence from the scope of the [sequence listing] rules.” Accordingly, because all the polypeptide sequences expressly recited in the Application contain D-amino acids, no sequence listing is required. The Notice is thus in clear error.

Applicants respectfully request that the Office thus vacate the Notice to Comply.

Applicants assert that this Response to the Notice to Comply is being timely filed.

Respectfully submitted,

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Date: November 17, 2009